

**VOLUNTARY CLEANUP CONTRACT
07-5732-NRP**

**IN THE MATTER OF
STARRETT, EVANS RULE DIVISION, CHARLESTON COUNTY
and
GINN DEVELOPMENT COMPANY, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Ginn Development Company, LLC, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2005), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C §§ 9601, et seq., and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (2002), with respect to the Property located at North Charleston, South Carolina. The Property is identified by Tax Map Serial Numbers 475-00-00-007 and 475-00-00-010. The Property includes approximately 13 acres and is bounded generally to the north by Fain Street, to the east by businesses located along Fain Street including Montague Industrial, to the south by businesses located on Technical Parkway, including Hertz Equipment Rental, and to the west by residential dwellings along Eagle Drive. In entering this Contract, the Department relies on the representations of the "Information and Certification" of October 16, 2007 by Ginn Development Company, LLC, which is incorporated into this Contract and attached as Appendix A.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, including any amendments, or in the regulations promulgated thereunder.

A. "Ginn" shall mean Ginn Development Company, LLC.

- B. “Bona Fide Prospective Purchaser” shall have the same meaning as that in CERCLA, Section 222.
- C. “Contract” shall mean this Voluntary Cleanup Contract.
- D. “Department” shall mean the South Carolina Department of Health and Environmental Control or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- E. “Existing Contamination” shall mean any hazardous substances, pollutants or contaminants (as defined herein), present or existing on or under the Site as of the execution date of this Contract.
- F. “Hazardous Substance” means
 - a. Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)],
 - b. Any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title,
 - c. Any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress),
 - d. Any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)],
 - e. Any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and,

- f. Any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- G. “Non-Responsible Party” (or “NRP”) shall mean any party which is neither:
 - a. A responsible party at the time the voluntary cleanup contract is signed, including lenders, economic development agencies, fiduciaries, trustees, executors, administrators, custodians, subsequent holders of a security interest; nor
 - b. A parent, subsidiary of, or successor to a responsible party.
- H. “Oversight Costs” shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract and any future amendments thereto.
- I. “Pollutant or Contaminant” includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; “contaminant” does not include

petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA, Section 101, 42 U.S.C. Section 9601, et seq. and does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.

- J. “Property” shall mean property as described in the Information and Certification attached as Appendix A, and that is subject to ownership, prospective ownership, or possessory or contractual interest of Ginn.
- K. “Response Action” shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- L. “Responsible Party” shall mean:
 - a. The owner and operator of a vessel, as defined in CERCLA Section 101 (28), or a facility;
 - b. Any person who, at the time of disposal of any hazardous substance, owned or operated any facility at which such hazardous substances were disposed of;
 - c. Any person who, by contract, settlement, or otherwise, arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by such a party or entity and containing such hazardous substances; and/or
 - d. Any person who accepts or accepted any hazardous substances for

transport to disposal or treatment facilities, incineration vessels, as defined in CERCLA Section 101 (38), or sites selected by such person from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance.

M. "The Site" shall mean all areas where a contaminant has been released, deposited, stored, disposed of, placed, or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA Section 101 (28).

N. "Voluntary Cleanup" shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2005).

O. "Work Plan" shall mean the plan for additional response actions to be conducted at the Property as described in Paragraph 5 of this Contract.

2. Based on the information known by and/or provided to the Department, the following findings are asserted for purposes of this Contract:

A. Owners and operators on the Property are as follows:

Evans Aristrocat Industries, Inc (Parcel 475-00-00-007)	1972 - 1987
Evans Aristrocat Industries, Inc (Parcel 475-00-00-010)	1978 – 1987
L.S. Starrett Company (Both Parcels)	1987 - Present

- B. The Property was developed as a tape measure manufacturing facility in 1972. The facility is comprised of a 170,000 sq. ft. metal and masonry structure used for office (approximately 10,000 sq. ft.), manufacturing (approximately 90,000 sq. ft.), and warehouse (approximately 70,000 sq. ft.). An approximately 50,000 sq. ft. asphalt parking area is located on the northern side of the structure.
- C. The manufacturing process includes metal plating and painting. Zinc ingots were melted and dye-cast into tape measures. The plating operation was subsequently changed to include the use of copper, nickel, and chrome until approximately 1998. Plating is no longer conducted on the Property.
- D. The painting operation included the use of water-based paint. While the current painting area is new, the old painting area, located below ground level, was filled with concrete.
- E. Two wastewater treatment facilities are located on the Property to treat discharge water from the metal plating and painting operations. One is located within the manufacturing structure and the other is located on the western side of the Property. Both of the systems were tied to the North Charleston Sewer District, and neither are currently operational.
- F. Residential development, which began in the late 1950's, exists to the west of the Property.
- G. Ginn intends to transfer the Property to the County of Charleston for use as a Disaster Preparedness Storage Warehouse and The Hope Center. The Hope Center will be a facility to which the County will transport disabled citizens to

work in such endeavors as third-party logistics, sorting dry goods, baking, and woodworking.

3. Ginn is a Georgia Limited Liability Company with its principal place of business located at 1 Hammock Beach Parkway, Palm Coast, Florida, 32137. Ginn is a Non-Responsible Party at the Site; it is not a parent, successor, or subsidiary of a Responsible Party at the Site; and it certifies that it and its members are eligible to be a Bona Fide Prospective Purchaser for the Property. Ginn and its members have had no previous involvement with the Site, including but not limited to any such activities that may have resulted in any Existing Contamination at the Site.
4. Ginn agrees to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Property that is consistent with the technical intent of the National Contingency Plan. The Work Plan shall be implemented upon written approval from the Department. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the analytical laboratory certified by the Department, and Ginn's contact person for matters relating to this Contract. Ginn will notify the Department in writing of changes in the contractor or laboratory. The Department will review the Work Plan and will notify Ginn in writing of any deficiencies in the Work Plan, and Ginn shall respond in writing within thirty (30) days to the Department's comments. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:
 - A. In the event that drums, tanks, or other containers and items that are potential sources of hazardous substances are found on the Property at any time during

assessment or development activities, all shall be characterized and removed from the Property for proper use or disposal in accordance with applicable regulations.

- i. Records documenting characterization and disposal of these items shall be provided to the Department within 60 days of removal.
- ii. Should any release of hazardous substances occur or be identified during removal of these items, Ginn shall immediately notify the Department and shall assess the impact of the release in accordance with a Department approved plan.

B. Ginn shall conduct a well survey:

- i. Any public or private wells used for drinking purposes within a one-half mile radius of the property, and any well used for irrigation or other non-drinking water use within a one-quarter-mile radius, shall be mapped and reported to the Department.
- ii. Information provided to the Department shall be sufficient to allow the Department to secure permission to sample the well, if deemed necessary. At a minimum, this information shall include the 1) Location of the well, 2) Identity and mailing address of the well owner, and, 3) Phone number, if publicly available or otherwise known to Ginn, of the well owner or occupant of the residence served by the well.

C. If process drain lines emanating from the buildings, or from any ancillary structures or operations, remain in place during or after redevelopment of the Property, Ginn shall ensure that the drain lines are either removed or adequately sealed to prevent further use or potential release from the drain lines. For any drain lines that are not assessed by the other portions of this Contract, Ginn shall assess the surrounding media, including soil, sediment,

surface water, and/or groundwater, as appropriate, in accordance with a Department approved plan.

D. Ginn shall assess soil contamination:

- i. Due to the potential historical use of parcel 475-00-00-010 for agricultural purposes, a minimum of 1 surface and corresponding subsurface soil sample shall be collected for every acre. Soil samples shall be analyzed for TAL metals and Pesticides.
- ii. If surface drain sumps associated with the Waste Water Treatment Plants (WWTP), the painting area, and the plating area remain in place during or after redevelopment of the Property and if soils/sediments exist in those surface drain sumps, Ginn shall collect 1 soil sample from each of the sumps. The samples shall be analyzed for TCL volatile organic compounds (VOCs), TCL semi-volatile organic compounds (SVOCs), and TAL metals.
- iii. 1 surface soil sample shall be collected from each side of the 90-day storage area and shall be analyzed for SVOCs and TAL metals. A corresponding subsurface soil sample, collected from a minimum depth of 3 feet, shall be collected from each location and analyzed for VOCs, SVOCs, and TAL metals.
- iv. Surface soil quality results shall be compared to EPA Region IX Preliminary Remediation Goals (PRGs) for residential and industrial exposure and EPA Region IX Soil Screening Levels for Contaminant Migration to Groundwater (SSLs) with a dilution/attenuation factor (DAF) of 1 as a default or a site-specific value, if agreeable to the Department.

E. Ginn shall assess groundwater quality by installing 4 permanent groundwater monitoring wells and up to 4 temporary wells:

- i. 4 permanent monitoring wells shall be installed along the perimeter of the

building. One well shall be located along the west side of the building suitable to detect potential contamination resulting from the former plating operations, one shall be located near the exterior Waste Water Treatment Plant, one shall be located south of the building, and one shall be located near the 90-day storage unit. The wells shall be installed in locations sufficient to establish groundwater flow direction and to capture potential releases from underneath the building.

- ii. A maximum of 4 shallow temporary monitoring wells shall be installed in suitable locations to capture potential contamination migrating from the petroleum releases associated with adjacent facilities (Montague Industries and Hertz Equipment Rental). The need for some of these temporary wells may be negated if the permanent wells required in Paragraph 4.E.i above are also capable of capturing potential contamination migrating onto the Property from adjacent facilities.
- iii. Samples from the permanent monitoring wells shall be analyzed for the full suite of parameters on the EPA Target Analyte List and Target Compound List (TAL/TCL). Samples from the temporary wells shall be analyzed for VOCs and SVOCs. All analytical methods shall use appropriate detection levels to allow comparison to the criteria specified below.
- iv. Groundwater quality results shall be compared to standards set forth in the South Carolina State Primary Drinking Water Regulations, R.61-58 or if not specified in R.61-58, to the EPA region IX Preliminary Remediation Goals for Tap Water.

F. Ginn shall assess sediment and surface water quality:

- i. 2 sediment and 2 corresponding surface water samples shall be collected from the drainage ditch located along the southern Property boundary.
- ii. If a drainage ditch exists to the west between the Property and the

- residential neighborhood, 2 sediment samples and 2 corresponding surface water samples shall be collected from this ditch.
- iii. Sediment samples shall be analyzed for VOCs, SVOCs, Pesticides, and TAL Metals and the surface water samples shall be analyzed for VOCs, SVOCs, and TAL metals. At least one of the sediment samples shall be analyzed for TAL/TCL parameters.
 - iv. Surface water quality results shall be compared to the values set forth in the SC Water Classifications and Standards R.61-68, based on consumption of either “water and organisms” or “organisms only” as applicable for the water body. Sediment samples shall be compared to the Ecological Screening Values as included in EPA Region 4 Ecological Risk Assessment – Supplement to RAGS (<http://www.epa.gov/region4/waste/ots/ecolbul.htm>).
- G. Based on the results of initial assessment, additional assessment may be required to determine the extent of contamination.
- H. Evaluate and control potential impacts to indoor air:
- i. In the event that the Department determines significant concentrations of volatile organic compounds are encountered in subsurface soil samples or groundwater samples, a statistically significant number of soil gas samples shall be collected at locations to be specified in the Work Plan and approved by the Department. The Department will use the modified Johnson and Ettinger Model to determine “Significant concentrations” and the model will be constrained towards predicting commercial exposures consistent with the building construction.
 - ii. Soil gas samples shall be analyzed for all site related constituents including volatile organic compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a 10^{-6} risk for shallow

gas samples (using an attenuation factor appropriate for the depth of the samples) as identified in Table 2c of EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance), <http://www.epa.gov/correctiveaction/eos/vapor.htm>.

- iii. An addendum to the Work Plan shall be submitted detailing the steps to be taken if the soil gas evaluation indicates contamination underlying the Property may impact indoor air quality.

- I. Stop continuing releases and address contamination in a manner that is protective of human health and the environment, consistent with the intended future use of the Property:

- i. Based on the results of the assessment activities above, Ginn shall take reasonable steps, approved by the Department, to address the presence of hazardous substances:
 - a. In excess of appropriate human-health and ecological risk-based standards via all potential routes of exposure;
 - b. In excess of appropriate standards for contaminant migration to groundwater; or
 - c. In the event that presumptive evidence of a Non-Aqueous Phase Liquid (NAPL) is found in the subsurface under the Property. For purposes of this clause, presumptive evidence of NAPL shall be defined as finding solvent concentrations at, or greater than, 1% of its solubility limit in any groundwater sample.

- J. Groundwater Monitoring:

- i. Based on the results of groundwater assessment, implementation of a Department-approved groundwater monitoring program may be required.

- ii. If groundwater monitoring is not required and there are no further needs for any of the groundwater monitoring wells, Ginn shall abandon the monitoring well(s) in accordance with R.61-71 of the South Carolina Well Standards, dated April 26, 2002.
- 5. Ginn shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. Ginn agrees that the Health and Safety plan is submitted for informational purposes only to the Department and the Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by Ginn.
- 6. Ginn shall inform the Department at least five (5) working days in advance of all field activities pursuant to this Contract and shall allow the Department and its authorized representatives, if so desired, to take duplicates of any samples collected by Ginn pursuant to this Contract.
- 7. Ginn shall preserve all drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site that may provide environmental information, evidence of a Potentially Responsible Party's involvement at the Site, or may lead to the discovery of other areas of contamination at the Site. Prior to destruction of any such items, Ginn shall notify the Department of their location and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense.
- 8. Within 30 days of Work Plan approval and quarterly thereafter, Ginn shall submit to the Department's project manager a written progress report that must include the

following: (a) actions taken under this Contract during the previous reporting period; (b) actions scheduled to be taken in the next reporting period; (c) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (d) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

9. All correspondence which may be required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by (i) regular U.S. mail, (ii) certified or registered mail, postage prepaid, return receipt requested, (iii) or nationally recognized overnight delivery service company or by hand delivery to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing. All correspondence, four (4) copies of all Work Plans and Reports, and one (1) copy of the Health and Safety Plan should be submitted to:

For the Department:

Jerry Stamps

Bureau of Land and Waste Management

2600 Bull Street

Columbia, South Carolina 29201

For Ginn:

Robert F. Masters

1 Hammock Beach Parkway

Palm Coast, Florida 32137

10. The Department and Ginn recognize that public participation is an important

component of the Voluntary Cleanup Contract. Specific functions of the Department and Ginn are as follows:

- i. The Department will seek public comment in accordance with S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005) as outlined below:
 - a. Upon signature of this Contract by Ginn, the Department will provide notice for public participation by placing announcements describing the proposed Contract in newspaper(s) of general circulation within the affected community. A thirty-day period following the publication date of the announcement(s) will be provided for public comment and will precede the Department's scheduled date for execution of the Contract.
 - b. The Department may publicize the proposed Contract by any other means including, but not limited to, electronic mail, news releases, community flyers, and door-to-door canvassing. Such actions may be done solely at the Department's discretion.
 - c. A public informational meeting will be held if requested by twelve residents of South Carolina or an organization representing twelve or more residents of South Carolina. At the Department's discretion, public informational meetings may be held in the nearby communities for any other reason prior to the Department executing the contract. A public meeting may be requested at any time during the thirty-day comment period. In the event that a public meeting is deemed necessary, the Department will provide approximately two weeks advance notice of the meeting to the public and will extend the public comment period at least through the end of the day following the public meeting. The Department will not execute the contract during any public comment period. In addition, the Department may, at its discretion, conduct public meetings to inform the community about the site at any time after the contract is executed until the certificate of completion is issued.

- ii. Ginn agrees to enhance the public knowledge of the site response activities by:
 - a. Erecting a sign(s) at each entrance onto the Property from any public road, thoroughfare, navigable waterway, or other location routinely accessible by the public. The sign(s) shall be erected not later than one day after publication of any public announcement about the site placed by the Department in any newspaper of general circulation in the community.
 - b. The sign will state "Voluntary Cleanup Project by Ginn Development Company, LLC under Voluntary Cleanup Contract 07-5732-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the NRP contract and contact information, including telephone number and address, for a representative of Ginn. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432". All required lettering on the sign must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the site without intruding onto the Property.
 - c. Within 10 days after erecting the sign, Ginn shall furnish to the Department photographs of the sign along with a site location drawing showing the sign location(s). Photograph(s) of the sign(s) shall be taken from no closer than the edge of the publicly-accessible road, waterway, etc. and should include an appropriately sized scale reference so that Department may determine the size of the sign and effectiveness of the lettering. Ginn agrees to revise the sign if the Department determines the sign is not legible.
 - d. Ginn must maintain the sign(s) in legible conditions and visible locations throughout the duration of the contract period until a certificate of

completion is issued on the site.

- e. In the event that any sign must be removed to accommodate building or grading activities, Ginn shall replace the sign within two days. If the sign cannot be restored to the original location, Ginn may relocate it to another location meeting the conditions specified above.
 - iii. All costs incurred by the Department for public participation (e.g., public notice(s), building and equipment rental(s) for public meetings, etc.) will be paid by Ginn.
- 11. The terms and conditions of this Contract apply to and shall inure to the benefit of each signatory and its Non-Responsible Party lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries but only to the extent that such parties have never been a Responsible Party at the Site and the Department. The Department shall be notified in writing upon transfer of ownership of the Property-
- 12. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation not a signatory of this Contract or a signatory's NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.
- 13. Nothing in this Contract is intended to limit the right of the Department to undertake future response actions at the Site or to seek to compel parties other than Ginn and its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising

its authority under State and Federal law.

14. The Department, its authorized officers, employees, representatives, and all other persons performing response actions will not be denied access to the Property during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). Ginn and subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee successor or other transferee of the Property.
15. As provided for by S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (D) (2002), Ginn shall, on a quarterly basis, reimburse the Department for oversight costs of activities required under this Contract. Oversight costs include but are not limited to the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work, and public participation. Payments will be due within thirty (30) days of receipt of the Department's invoice. Invoices shall be submitted to:

Robert F. Masters
1 Hammock Beach Parkway
Palm Coast, Florida 32137

16. The Department and Ginn agree that the following are entitled to protection from contribution claims as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005): Ginn, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. A thirty (30) day comment period for contribution protection commences upon notice of this Contract to Responsible

Parties at the Site as identified by the Department through a reasonable search effort.

17. The Department and Ginn agree that the following are entitled to protection from third-party claims for equitable relief or damages relating to "Existing Contamination" at the Site, as provided by S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005): Ginn, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. This limitation on liability does not apply to any contamination, releases, and consequences caused by Ginn or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. Furthermore, this limitation of liability is effective on the date this contract is executed by the Department, but will be automatically withdrawn if this contract is lawfully terminated by either party.
18. If hazardous substances in excess of residential standards exist at the Property after the actions required under this Contract are completed, Ginn or subsequent owners working under this Contract shall enter into and record a restrictive covenant. The executed restrictive covenant shall be incorporated into this contract as an Appendix and shall be subject to the following provisions:
 - A. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and an authorized representative of Ginn or subsequent owners working under this Contract and witnessed, signed, and sealed by a notary public. The fully executed restrictive covenant shall be filed with the Register of Mesne Conveyance or Deeds in Charleston County by Ginn or subsequent owner executing the instrument, and a copy of the restrictive covenant shall be provided to the Department showing that the document has been filed and showing the book and page number where it has been recorded by the county.

- B. With the approval of the Department, the restrictive covenant may be modified in the future if additional remedial activities are carried out that meet appropriate clean up standards at that time or circumstances change such that the restrictive covenant would no longer be applicable.
 - C. The Department may require Ginn or subsequent owners to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occur.
 - D. Ginn or subsequent owners may commission a survey to delineate a new legal parcel that is subject to the restrictive covenant.
 - E. Ginn or the single individual or entity responsible for coordinated compliance monitoring shall file an annual report with the Department by May 31st of each year detailing the current land uses and compliance with the restrictive covenants for as long as the restrictive covenant remains in effect on the affected property. The report may be submitted in a manner prescribed by the Department.
19. Two (2) years after the execution date of this Contract, Ginn or subsequent owner of the Property shall provide the Department with the following information concerning the new operation at the Property: the number of jobs created; the amount of increase to the tax base; the amount of soil removed or remediated, if necessary; cost of all environmental work; and any other information that demonstrates that the activities performed pursuant to this Contract have been beneficial to the State, the community, and the Department.
20. Upon successful completion of the terms of this Contract as referenced in Paragraphs 4, 5 and 18 above, Ginn shall submit to the Department a written notice of completion. As part of this notice, Ginn shall report the costs of all environmental work and the total amount invested in the site for property acquisition and capital

improvements. Once the Department determines satisfactory completion of the Contract terms, the Department, as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005), will give Ginn a Certificate of Completion that provides a covenant not to sue Ginn, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries for Existing Contamination, except for releases and consequences caused by Ginn or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. In consideration of the protections from the Department, Ginn and its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries agree not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

21. Ginn specifically denies any responsibility for response costs or damages resulting from Existing Contamination and does not, by signing this Contract, waive any rights that it may have to assert any claims in law or equity against any other person, company, or entity with respect to the Site. However, Ginn and its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries are responsible and liable for any and all contamination, releases, and consequences they cause or contribute to the Site. Should environmental contamination neither previously-identified nor identified during the performance of response actions required under this Contract be discovered at the Site after the execution date of the Certificate of Completion, the burden is on Ginn or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries to demonstrate to the Department's satisfaction that the

contamination, releases, and consequences were not caused by Ginn or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.

22. Ginn or subsequent owners of the Property and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Contract to the other party. Should Ginn or subsequent owners of the Property elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that any environmental or physical hazard created by Ginn shall be stabilized and/or mitigated such that the Property does not pose a hazard to human health or the environment that did not exist prior to any initial response action addressing contamination identified in this Contract.
23. The Department may terminate this Contract only for cause, which may include, but is not limited to, the following:
 - A. Events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract;
 - B. Failure to complete the terms of this Contract or the Work Plan;
 - C. Failure to submit timely payment for oversight costs as defined in Paragraph 15 above,
 - D. Additional contamination or releases or consequences caused by Ginn or its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries;
 - E. Providing the Department with false or incomplete information or knowing failure to disclose material information;

- F. Change in Ginn's, its lenders', parents', subsidiaries', and successors', including new purchasers', lessees', heirs', and beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract.
 - G. Consistent failure by Ginn or subsequent owner of the Property to achieve demonstrable progress towards redeveloping the Property or restoring it to productive use.
24. Upon termination of the Contract, the covenant not to sue, contribution protection, and liability protection will be null and void. However, if the lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries provide false or incomplete information or if its business activities change such that they are inconsistent with the terms and conditions of this Contract, then the covenant not to sue, contribution protection, and liability protection shall become null and void only as to the lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries involved in the action giving rise to the termination without affecting the protections provided by this Contract to the previous Non-Responsible Parties and other NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.
25. The signatories below hereby represent that they are authorized to and do enter into this contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL**

BY: _____
Robert W. King, Jr., P.E.
Deputy Commissioner
Environmental Quality Control

DATE: _____
Columbia, South Carolina

Patrick T. (Pat) Walker, Chief
Bureau of Land and Waste Management

DATE: _____

Approved by Office of General Counsel

DATE: _____

GINN DEVELOPMENT COMPANY, LLC

BY: _____

DATE: _____

Printed Name and Title

BY: _____

DATE: _____

Printed Name and Title